IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.4577 OF 2006

Kirit D.Mehta. .. .. Petitioner
Vs.
Leela Raj Co-operative Housing
Society Ltd. & Anr. .. .. Respondents
--

S/Shri P.S.Dani with H.S.Thakkar for the petitioner.

Shri Vijay D.Patil for the Respondent No.1.

Shri A.B.Palekar, AGP for the Respondent No.2.
--

CORAM : R.M.S.KHANDEPARKAR, J

DATED : 13th October, 2006

P.C.

1. Heard. The petitioner challenges the order dated 18th May, 2006 passed by the Co-operative Appellate Court, Mumbai, directing the petitioner to hand over possession of the Flat No.8 on Plot No.49 of the building of the society to the respondent in order to enable the society to complete development work and construction of a new building as early as possible. Though the impugned order is sought to be challenged on various grounds including the ground that the respondents had failed to make out any case of urgency for development of the property or demolition of the whole building and construction of a new building, as well that there are better offers from the builders than the one by the builder whose offer has been

accepted by the society, the fact remains that the petitioner had never challenged the Resolution dated 3rd April, 2005 passed by the society, and the society had decided to demolish the building in question and to reconstruct a new building and in that regard, to accept offer of the builder whose offer has ultimately been accepted, and the formal agreement in that regard has been executed on 20th February, 2006. In the absence of any challenge to the said resolution, there is absolutely no case made out for interference in the impugned order. Even assuming that the reasonings in the impugned order may not be sound, nevertheless no fault can be found with the final order directing the petitioner to hand over possession of the said flat in the absence of any challenge to the Resolution dated 3rd April, 2005 of the society. Besides, needless to say that the rising costs and prices of the construction certainly justifies prompt steps for construction and completion of new building in terms of the Resolution dated 3rd April, 2005. Being so, there is absolutely no case made out for interference in the impugned order in writ jurisdiction under Article 227 of the Constitution of India.

2. The petitioner, therefore, fails, and is hereby rejected.

(R.M.S.KHANDEPARKAR, J)